

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
NORTHERN DIVISION

BILL R. STAUFFER and
DELORES STAUFFER,

Plaintiffs,

vs.

Case No.

KIRKSVILLE MISSOURI HOSPITAL
COMPANY, L.L.C. d/b/a
NORTHEAST REGIONAL MEDICAL
CENTER,

NAJMA USMANI, M.D., and

MELANIE GRGURICH, D.O.,

Defendants.

NOTICE OF REMOVAL

Defendant, Melanie Grgurich, D.O., a physician at Northeast Missouri Health Council, Inc., at the time of the incident alleged in the Complaint, sued in her individual capacity, hereby gives notice pursuant to 28 U.S.C. §§ 1446(a) & 1442(a)(1), 28 U.S.C. §2679(d)(2), and 42 U.S.C. §233(c), by and through her attorneys, Richard G. Callahan, United States Attorney for the Eastern District of Missouri, and Christina B. Moore, Assistant United States Attorney for said District, that she is removing this action to the United States District Court for the Eastern District of Missouri, Northern Division, on the following grounds:

1. Defendant Melanie Grgurich, D.O. is a defendant in a civil action now pending in the Circuit Court of Adair County, State of Missouri, Cause No. 10AR-CV00045.

2. The action in state court against Melanie Grgurich, D.O. and others is a civil Petition for medical malpractice alleging negligent and careless medical care provided on or about January 21, 2008 through January 24, 2008. The specific allegations against Defendant Grgurich are contained in Plaintiff's Petition. See Plaintiff's Petition. Plaintiff Bill R. Stauffer

alleges he sustained injuries as direct and proximate cause of said alleged negligence and carelessness. As a result of said alleged wrongful acts and/or omissions, Bill R. Stauffer “suffered severe and permanent personal injuries with resulting permanent disability and impairment.” See Plaintiff’s Petition.

3. The United States Attorney has certified that Defendant Melanie Grgurich, D.O., was acting within the scope of her employment at the time of the incidents out of which the suit arises, pursuant to the Federally Supported Health Centers Assistance Act of 1992, Pub. L.102-501. (See attached declaration of United States Attorney Richard G. Callahan). Northeast Missouri Health Council, Inc. was deemed eligible for Federal Torts Claim Act coverage effective January 1, 2008. Accordingly, Defendant Melanie Grgurich, D.O. is deemed to be a U.S. Public Health Service employee covered by 42 U.S.C. §233(a) for acts and omissions that occurred after that date.

4. This Notice of Removal is brought pursuant to 28 U.S.C. § 1442(a)(1) and 28 U.S.C. §2679(d)(2). See also, 42 U.S.C. §233(c). As set forth in 28 U.S.C. § 1442(a)(1), a civil action commenced in a state court against the United States or “any agency thereof or any officer (or any person acting under that officer) of the United States or of any agency thereof, sued in an individual capacity for any act under color of such office...,” may be removed “to the district court of the United States for the district and division embracing the place wherein it is pending.” Both 28 U.S.C. §2679(d)(2), as well as 42 U.S.C. §233(c), provide for removal from state court “at any time before trial.”

5. As required by 28 U.S.C. § 1446(a), a copy of all process, pleadings, and orders that have been served upon Defendant are attached. A certified copy of the state court file has been requested and shall be filed with this Court upon receipt.

WHEREFORE, this action, now pending in the Circuit Court of the County of Adair, Missouri, is removed to this Court.

Respectfully submitted,

RICHARD G. CALLAHAN
United States Attorney

/s/ Christina B. Moore
CHRISTINA B. MOORE
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CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of August, 2010, the foregoing Notice of Removal was filed electronically with the Clerk of Court to be served by operation of the Court's electronic filing system, and was mailed by U.S. Mail, postage prepaid to:

Lynn Richard Johnson
2600 Grand Blvd.
Suite 550
Kansas City, MO 64108

/s/ Christina B. Moore
CHRISTINA B. MOORE